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CrI.O.P.No.4183 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.4183 of 2025

Moun Prasath

... Petitioner

Vs

State, represented by
The Inspector of Police,
Pollachi Taluk Police Station,
Coimbatore District.
(Crime No. 411 of 2024)

... Respondent

Criminal Original Petition is filed under Section 528 of B.N.S.S. to call for the records relating to the FIR in Crime No. 411 of 2024 on the file of the Inspector of Police, Pollachi Taluk Police Station, Coimbatore District and quash the same as against the petitioner.

For Petitioner : Ms.G.Gayathri

For Respondent : Mr.A.Gopinath, Government Advocate

ORDER

This Petition has been filed to quash the First Information Report in Crime No.411 of 2024 on the file of the respondent.



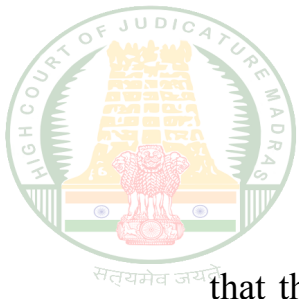
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2. The respondent registered the First Information Report in Crime No.411 of 2024 for the offence punishable under Section 12 of the Tamil Nadu Gaming and Police Law Act, 1930 (Amendment 2021) [hereinafter referred to as 'the Act' for short] as against 10 accused persons, alleging that the respondent lodged a complaint against a group of individuals participating in Cockfight by betting. The provision under Section 12 of the Act is a non-cognizable and bailable offence. As per Section 174(2) of B.N.S.S, for non-cognizable offences, the Police are mandated to obtain prior permission from the concerned jurisdictional Magistrate even for registration of the First Information Report. Further, the respondent, being a Police personnel, himself is the complainant and registered the First Information Report.

3. Heard the learned counsel for both sides and perused the materials available on record.

4. It is well settled that it is only in cases where no cognizable offence or offence of any kind is disclosed in the First Information Report



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that the Court will not permit an investigation to continue. It is relevant to extract the provision under Section 174 of B.N.N.S as follows:-

174. Information as to non-cognizable cases and investigation of such cases.

(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may by rules prescribe in this behalf, and,-(i) refer the informant to the Magistrate;(ii) forward the daily diary report of all such cases fortnightly to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

Thus, no Police officer shall investigate non-cognizable cases without the



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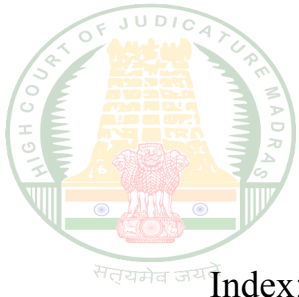
order of the Magistrate having power to try such case or commit the case for trial.

5. Therefore, the respondent has no jurisdiction to register the First Information Report for non-cognizable offences without getting prior permission from the concerned jurisdictional Court.

6. In view of the above, the impugned FIR cannot be sustained as against the petitioner, and it is liable to be quashed. Therefore, the FIR in Crime No.411 of 2024, dated 01.12.2024, on the file of the respondent herein is hereby quashed.

7. Accordingly, this Criminal Original Petition stands allowed.

17.02.2025



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Index: Yes/No
Neutral Citation: Yes/No
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To

The Inspector of Police,
Pollachi Taluk Police Station,
Coimbatore District.



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G.K.ILANTHIRAIYAN, J.

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